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## STAFF COMMENTS FOR PLANNING COMMISSION

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**MEETING DATE:** September 6, 2006

**TEXT AMENDMENT:** **T-372**

**TITLE:** **AMENDMENT TO SITE DEVELOPMENT  
PLANS**

**REQUEST:** **Recommendation**

**ADDRESS:** N/A

**ZONE:** N/A

**APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER:** (as applicable)

**STAFF PERSON:** Greg Ossont, Director  
Planning and Code Administration

**Enclosures:**

Staff Comments

Exhibit 2: Draft Text Amendment Ordinance

Exhibit 8: Joint Public Hearing Cover Sheet, January 3, 2006

Exhibit 11: E-mail from Cathy Drzyzgula

Exhibit 10: January 17, 2006 Joint Public Hearing Minutes

Exhibit 13: Work Session Material

## STAFF COMMENTS

A joint public hearing was held on January 3, 2006. A joint work session was held on February 13, 2006. The Planning Commission record remains open. There are thirteen exhibits in the record including background material from the joint public hearing and work session.

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

Staff has been asked to review the procedures related to amending site development plans and the thresholds for minor amendment (staff approvals) and consent items. Upon review, it was determined that although the Planning Commission's Rules of Procedures allow for a "consent agenda," nothing in the zoning ordinance provides standards for "consent items."

Further, it was noted that the following subsection, which establishes standards for minor amendments, has caused concern with both staff and the Commission:

### **Section 24-172(c)(1)(d)**

*"Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings."*

In practice, this subsection prevents any modification to a structure which "adds onto" or expands a footprint from being classified as a minor amendment and undergoing a staff approval process. As you are aware, a number of the City's residential neighborhoods are under the purview of site development plans. As a result, any modification which adds onto a house in these neighborhoods exceeds the threshold for a minor amendment and triggers a full hearing and amendment to final plan review.

The proposed text amendment provides new language which establishes the ability to create a consent agenda as well as installs a threshold to distinguish the appropriate approval process for single-family dwelling additions. The text amendment essentially creates a new section (24-172A) for amendments to site development plans. In other words, subsection B of Section 24-172, has been broken out into a new Section 24-172A.

The new 24-172A, includes the following new language:

*(a) **Amendment requests, other than minor amendment.** Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.*

This language provides language which enables the Planning Director to create a "consent agenda" for the Commission. If the application received is not a minor amendment, as later described in the section, or does not require a full public hearing before the Commission, then the item could be placed on the agenda as a "consent item." Examples of a consent item could be sign packages, a dumpster enclosure, temporary sales trailer for a new development or the fulfillment of a previous condition place on an applicant by the Commission. In the event that the Commission, in their review of the consent agenda, notes an application that the Commission

believes should not be a consent item, the Commission may vote to place the item on the regular site plan agenda with the customary advertising period and notification requirements.

The only other change to the existing ordinance is the introduction of a new standard for minor amendments. This language has been inserted as subsection (e) and states:

*(e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.*

If an application is submitted for a single-family dwelling that falls under the purview of a site development plan, and the proposed addition does not increase the square footage of the structure by more than 15%, the application could be reviewed as a minor amendment (staff approval). Please note the existing standards requiring conformity to applicable zoning regulations, general harmony with architecture and design characteristics, would still apply to a minor amendment. Additionally, the existing language that provides notification to abutting and confronting property owners and their respective rights to appeal decisions of the Planning Director to the Planning Commission remain in place.

During the Planning Commission's meeting on August 2, 2006, the Commission directed staff to include language requiring notice for consent agenda items. Staff has inserted language to require the same notification requirement as a minor amendment. Additionally, staff has modified subsection 24-172A(b)(3)(d) for further clarification as discussed during the August 2, 2006 meeting. A redlined version of the text amendment is attached to highlight these changes.

The Planning Commission record closed on August 30, 2006 and no additional exhibits have been added since the August 2<sup>nd</sup> meeting.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE  
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,  
"SITE DEVELOPMENT PLANS," §24-172, ENTITLED, "COMPLIANCE WITH  
AND CHANGES IN PLAN," AND TO CREATE NEW §24-172A, ENTITLED,  
"AMENDMENT TO SITE DEVELOPMENT PLAN," SO AS TO REVISE  
REQUIREMENTS FOR AMENDING SITE PLANS

**Text Amendment T-372**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article V, §24-172, is hereby amended and new §24-172A is hereby created, both to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

\*

\*

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**Sec. 24-172. Compliance with plan [and changes in plan].**

(a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~[(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning~~

department. ~~All amendment requests, except for minor amendments, shall be subject to public hearing and a decision by the city planning commission.]~~

~~[(c) *Minor amendment requests.*~~

~~(1) Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:~~

~~(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~

~~(b) Resiting of a lot with a house type previously approved by the city planning commission.~~

~~(c) Approval of retaining walls/fences and other enclosures.~~

~~(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~

~~(e) Minor signage changes or additions.~~

~~(f) Minor landscaping or pedestrian and sidewalk access revisions.~~

~~(g) Addition of easements and parking areas or correction of easement and parking area locations.~~

~~(h) Revisions to forest conservation plan.~~

~~(i) Revisions or amendments delegated by the city planning commission.~~

~~(2) Public hearings of the planning commission are not required for a minor amendment, provided, however, the planning director or his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.~~

~~(3) A minor amendment may only be granted if:~~

- ~~(a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and~~
- ~~(b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and~~
- ~~(c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.~~
- ~~(4) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.]~~

**Sec. 24-172A. Amendment to site development plan.**

A request for amendment to an approved site plan shall be accompanied by as much of the information required by section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments, shall be subject to a decision by the city planning commission.

- (a) Amendment requests, other than minor amendment. Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.

(1) Consent agenda items shall require the applicant to provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the

(g) Minor landscaping or pedestrian and sidewalk access revisions.

(h) Addition of easements and parking areas or correction of easement and parking area locations.

(i) Revisions to forest conservation plan.

(j) Revisions or amendments delegated by the city planning commission.

(4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

(5) A minor amendment may only be granted if:

(a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and

(b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and

(c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.

(6) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

ADOPTED by the City Council of Gaithersburg, Maryland, this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005.

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DELIVERED to the Mayor of the City of Gaithersburg, Maryland this  
\_\_\_\_\_ day of \_\_\_\_\_, 2005. APPROVED/VETOED by the Mayor of  
the City of Gaithersburg, Maryland this \_\_\_\_\_ day of \_\_\_\_\_,  
2005.

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SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the  
foregoing Ordinance was adopted  
by the City Council of  
Gaithersburg, in public meeting  
assembled, on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2005, and  
the same was  
APPROVED/VETOED by the  
Mayor of the City of Gaithersburg  
on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2005. This  
Ordinance will become effective on  
the \_\_\_\_\_ day of \_\_\_\_\_,  
2005.

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DAVID B. HUMPTON, City Manager



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## STAFF COMMENTS FOR PLANNING COMMISSION

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**MEETING DATE:** August 2, 2006

**TEXT AMENDMENT:** **T-372**

**TITLE:** **AMENDMENT TO SITE DEVELOPMENT  
PLANS**

**REQUEST:** **DISCUSSION & CLOSING OF  
RECORD**

**ADDRESS:** N/A

**ZONE:** N/A

**APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER:** (as  
applicable)

**STAFF PERSON:** Greg Ossont, Director  
Planning and Code Administration

**Enclosures:**

Staff Comments

- Exhibit 2: Draft Text Amendment Ordinance
- Exhibit 8: Joint Public Hearing Cover Sheet, January 3, 2006
- Exhibit 11: E-mail from Cathy Drzyzgula
- Exhibit 10: January 17, 2006 Joint Public Hearing Minutes
- Exhibit 13: Work Session Material

## STAFF COMMENTS

A joint public hearing was held on January 3, 2006. A joint work session was held on February 13, 2006. The Planning Commission record remains open. There are thirteen exhibits in the record including background material from the joint public hearing and work session.

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

Staff has been asked to review the procedures related to amending site development plans and the thresholds for minor amendment (staff approvals) and consent items. Upon review, it was determined that although the Planning Commission's Rules of Procedures allow for a "consent agenda," nothing in the zoning ordinance provides standards for "consent items."

Further, it was noted that the following subsection, which establishes standards for minor amendments, has caused concern with both staff and the Commission:

### **Section 24-172(c)(1)(d)**

*"Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings."*

In practice, this subsection prevents any modification to a structure which "adds onto" or expands a footprint from being classified as a minor amendment and undergoing a staff approval process. As you are aware, a number of the City's residential neighborhoods are under the purview of site development plans. As a result, any modification which adds onto a house in these neighborhoods exceeds the threshold for a minor amendment and triggers a full hearing and amendment to final plan review.

The proposed text amendment provides new language which establishes the ability to create a consent agenda as well as installs a threshold to distinguish the appropriate approval process for single-family dwelling additions. The text amendment essentially creates a new section (24-172A) for amendments to site development plans. In other words, subsection B of Section 24-172, has been broken out into a new Section 24-172A.

The new 24-172A, includes the following new language:

**(a) Amendment requests, other than minor amendment.** *Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.*

This language provides language which enables the Planning Director to create a "consent agenda" for the Commission. If the application received is not a minor amendment, as later described in the section, or does not require a full public hearing before the Commission, then the item could be placed on the agenda as a "consent item." Examples of a consent item could be sign packages, a dumpster enclosure, temporary sales trailer for a new development or the fulfillment of a previous condition place on an applicant by the Commission. In the event that

the Commission, in their review of the consent agenda, notes an application that the Commission believes should not be a consent item, the Commission may vote to place the item on the regular site plan agenda with the customary advertising period and notification requirements.

The only other change to the existing ordinance is the introduction of a new standard for minor amendments. This language has been inserted as subsection (e) and states:

*(e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.*

If an application is submitted for a single-family dwelling that falls under the purview of a site development plan, and the proposed addition does not increase the square footage of the structure by more than 15%, the application could be reviewed as a minor amendment (staff approval). Please note the existing standards requiring conformity to applicable zoning regulations, general harmony with architecture and design characteristics, would still apply to a minor amendment. Additionally, the existing language that provides notification to abutting and confronting property owners and their respective rights to appeal decisions of the Planning Director to the Planning Commission remain in place.

Staff is recommending the Planning Commission vote to close the record on T-372 on August 30, 2006 at 5:00 PM and anticipates a formal recommendation to the Mayor and City Council at the Commission's regular meeting September 6, 2006.

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE  
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,  
"SITE DEVELOPMENT PLANS," §24-172, ENTITLED, "COMPLIANCE WITH AND  
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**Text Amendment T-372**

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ARTICLE V. SITE DEVELOPMENT PLANS

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\*

\*

**Sec. 24-172. Compliance with plan [and changes in plan].**

(a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~[(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the~~



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[Single boldface brackets and strikethrough]

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*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill*

*Existing law unaffected by bill..*

city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department. All amendment requests, except for minor amendments, shall be subject to public hearing and a decision by the city planning commission.]

~~[(c) Minor amendment requests.~~

~~(1) Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:~~

~~(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~

~~(b) Resiting of a lot with a house type previously approved by the city planning commission.~~

~~(c) Approval of retaining walls/fences and other enclosures.~~

~~(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~

~~(e) Minor signage changes or additions.~~

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~~(g) Addition of easements and parking areas or correction of easement and parking area locations.~~

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~~(i) Revisions or amendments delegated by the city planning commission.~~

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his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

(3) A minor amendment may only be granted if:

- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
- (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
- (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.

(4) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.]

#### **Sec. 24-172A. Amendment to site development plan.**

A request for amendment to an approved site plan shall be accompanied by as much of the information required by section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments, shall be subject to a decision by the city planning commission.

(a) Amendment requests, other than minor amendment. Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or

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his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.

(b) Minor amendment requests.

- (1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.
- (2) The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.
- (3) Requests for minor amendment include:
  - (a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.
  - (b) Resiting of a lot with a house type previously approved by the city planning commission.
  - (c) Approval of retaining walls/fences and other enclosures.
  - (d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above) unless it conforms to item (e).
  - (e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.

*streamline  
process*

*Work session*

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- (f) Minor signage changes or additions.
  - (g) Minor landscaping or pedestrian and sidewalk access revisions.
  - (h) Addition of easements and parking areas or correction of easement and parking area locations.
  - (i) Revisions to forest conservation plan.
  - (j) Revisions or amendments delegated by the city planning commission.
- (4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.
- (5) A minor amendment may only be granted if:
- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
  - (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
  - (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.
- (6) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve,

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approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

ADOPTED by the City Council of Gaithersburg, Maryland, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this \_\_\_\_\_ day of \_\_\_\_\_, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the \_\_\_\_\_ day of \_\_\_\_\_, 2006. This Ordinance will become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
DAVID B. HUMPTON, City Manager

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*Deleted from existing law by original bill*

*Existing law unaffected by bill..*

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

January 3, 2006

**CALL TO PODIUM:**

**Trudy Schwarz**

**RESPONSIBLE STAFF:**

**Trudy Schwarz, Community  
Planning Director**

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	11/16/2005
	11/23/2005
	12/14/2006
	12/21/2006
Hearing Date	01/03/2006
Record Held Open	
Policy Discussion	

**TITLE:****JOINT PUBLIC HEARING**

T-372 - This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

**SUPPORTING BACKGROUND:**

In 2001, the Planning Commission reinstituted a Consent calendar on their agendas, in order to run efficient meetings. It was brought to the attention of the Commission and Staff that there are conflicts with the Commission's proceedings and §24-172. In order to continue efficient meetings, staff and the Planning Commission propose this amendment to §24-172. The amendment proposes to divide the existing section into two sections, one for Compliance with Plans (§24-172) and one for Amendment to Site Plans. The language in §24-172A(a) regulates amendments to site plans, other than minor amendments (Staff Approvals). Minor Amendments are regulated in §24-172A(b) where the language is the same except for section (e) which would allow staff to approve very minor additions. At the hearing, staff will present samples of additions that meet that qualification.

Staff suggests that the Planning Commission hold its record open for 21 days and the City Council hold its record open for 31 days.



Presentation: 5 Minutes

*Attachments: Index of Memoranda and Exhibits*

(Originally scheduled for December 5, 2005. Meeting which was cancelled due to inclement weather)

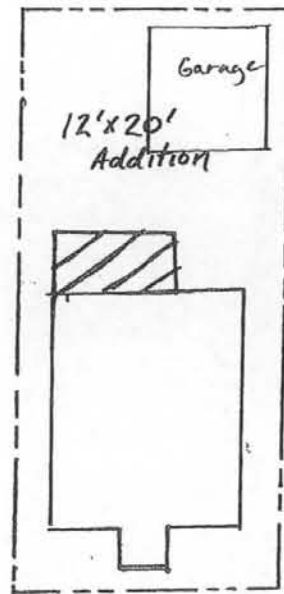
**DESIRED OUTCOME:**

**Planning Commission-record open 21 days, close January 24, 2005**

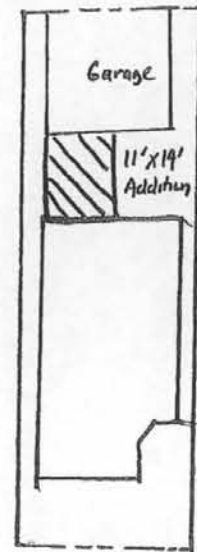
**City Council-record open 31 days, close January 6, 2006**

**Planning Commission recommendation-February 1, 2006**

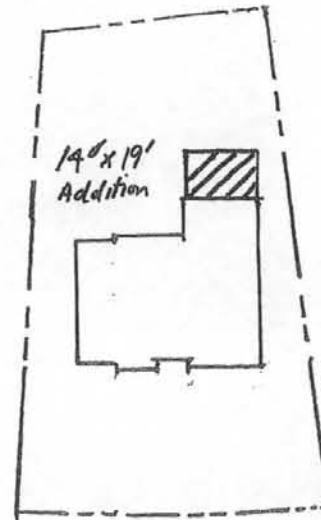
**City Council-policy discussion February 21, 2006**



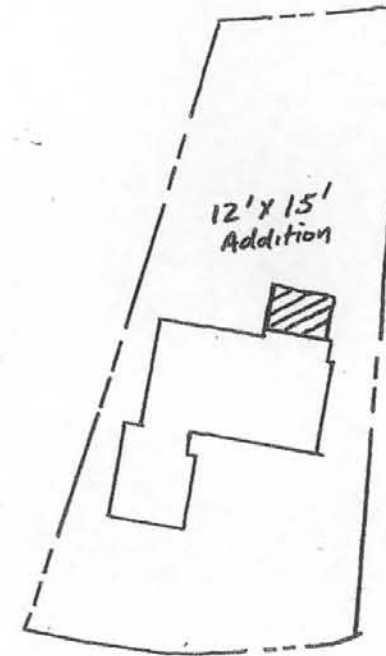
THURGOOD STREET  
9.4 % Addition  
Not to Scale



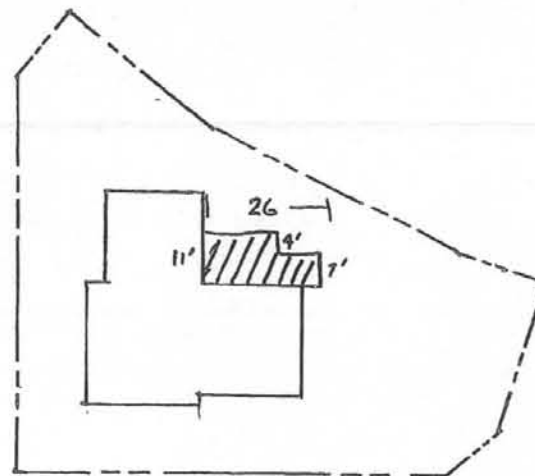
CHURCH GATE LANE  
8 % Addition  
Not to Scale



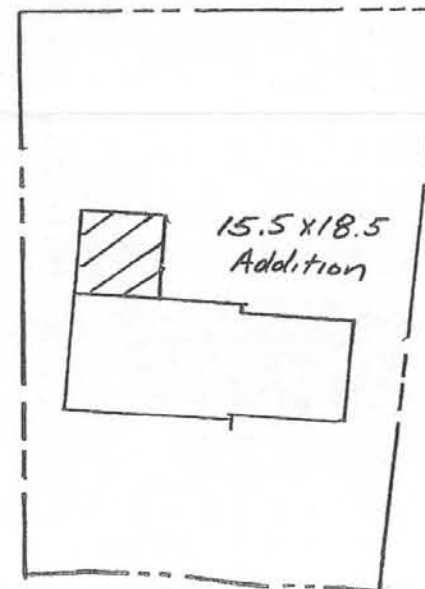
MIDSUMMER DRIVE  
7.4 % Addition  
Not to Scale



FLAME LEAF CT  
8 % Addition  
Not to Scale



TSCHIFFELY SQUARE ROAD  
8.7 % Addition  
Not to Scale



ALLENHURST COURT  
13.5 % Addition  
Not to Scale

5. *Justin Preuninger, 4 Sanders Court*, stated that he received notification of the joint public hearing through the City's myGaithersburg. He expressed disappointment that the City would consider making exceptions for developers and stated that higher buildings are unsightly.
6. *Ken Roynestad, 414 Gaither Street*, expressed concern that the above proposed text amendment had gotten this far in the process.
7. *Elizabeth Witzgall, 20 Walker Avenue*, stated that the proposed text amendment is inappropriate for consideration at a City Council meeting and such a proposed text amendment should go through the Master Plan process.
8. *Chantal Preuninger, 4 Sanders Court*, expressed opposition to the proposed waivers for building heights and opposition to the increase of heights for buildings in Olde Towne.

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Hopkins, that the Planning Commission accept the applicant's withdrawal and closed their record on T-371.

Vote: 5-0

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the City Council accept the applicant's withdrawal and close their record on T-371.

Vote: 5-0

4. **Joint – T-372, An Ordinance to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans, " Section 24-172A, Entitled, "Amendment to Site Development Plan," so as to Revise Requirements for Amending Site Plans**

Community Planning Director Schwarz stated that the above joint public hearing was advertised in the December 12 and 21, 2005 issues of the *Gaithersburg Gazette*, with nine exhibits in the record file. She stated that in 2001, the Planning Commission reinstituted a consent calendar on their agenda in order to run efficient meetings. It was brought to the attention of the Commission and staff that there were conflicts with the Commission proceedings and Section 24-172 of the City Code, so the Commission proposed an amendment to Section 24-172. Mrs. Schwarz stated that the amendment proposed to divide the existing section into two sections to comply with site plans and amendments with a site plans. Section 24-172(a), regulates amendments of site plans, and minor amendments are regulated in Section 24-172(a) (b) where the language is the same except for Section (e), which would allow staff to approve minor additions of 15 percent. She gave examples of amendments approved by the Planning Commission and then suggested minor amendments that are less than 15 percent, approved by the homeowners associations and final approval by staff. She stated that contractors and homeowners have walked into the Planning and Code Administration office and asked for approval expecting to get a permit within a couple weeks. They often find that they have to wait either one or two months to get on the Planning Commission agenda for homes that are part of an existing site plan. It was recommended that staff be allowed to approve minor additions less than 15 percent.



Mayor Katz, Council Members and Commissioners expressed concerns with staff approvals and questioned whether a new homeowner of the existing home could come back and ask for another 15 percent addition or possibly the addition for a second story to their home. Planning and Code Administration Director Ossont clarified that the text amendment addresses plans that are subjected to a previously approved site plan. He stated that staff would only approve the 15 percent addition and if another addition or a significant addition is required, then staff would forward the application to the Planning Commission for review.

Several Council Members and Commissioners asked for further discussion to better understand the staff approval process for simple additions, renovations, improvements to a home and the financial burden on a homeowner due to the current approval process.

Council Member Sesma expressed concern with the reporting of such staff approvals for review by the Planning Commission on a regular basis. Mayor Katz expressed concern with the public being aware of such approvals.

Commissioner Bauer expressed that it would be valuable to the citizens, if small residential projects can go through a process that is not under the same scrutiny as an office building, possibly through staff approval. The Mayor and City Council and Planning Commission agreed to hold their records open indefinitely and schedule a work session for further discussions of staff approvals.

Speaker from the public:

*Justin Preuninger, 4 Sanders Court*, questioned whether staff approvals could possibly cause problems similar to the Clarksburg development.

There were no other speakers at the hearing.

Motion was made by Commissioner Winborne, seconded by Commissioner Hopkins, that the Planning Commission record on T-372, be held open indefinitely.

Vote: 5-0

Motion was made by Council Member Marraffa, seconded by Council Member Alster, that the City Council record on T-372, be held open indefinitely.

Vote: 5-0

#### **VIII. ORDINANCES AND RESOLUTIONS**

##### **Resolution to Negotiate and Execute a Memorandum of Understanding (MOU) With Montgomery County on the Expenditure of Development Impact Taxes**

This resolution authorized the City Manager to negotiate and execute a MOU with the County. Assistant City Manager Felton stated that the Montgomery County Council enacted Bill No. 47-01, in March of 2002 that would apply county-wide. He stated that the Bill requires developers to pay an impact tax to fund transportation improvements, but representatives from both Gaithersburg and Rockville requested an amendment to the Bill. Both asked that the Bill require that funds collected

**From:** David B. Humpton  
**To:** cathy@drzyzgula.org  
**Date:** 02/21/2006 11:01:00 AM  
**Subject:** Work Session Comments

Cathy,

Thanks for your email. A copy of it will be forwarded to the Mayor and Council in their next reading package. A copy also has been forwarded to Greg Ossont for his review as well.

Thank you for your interest and input.

Sincerely,

David B. Humpton  
City Manager  
City of Gaithersburg

>>>>>>>

I listened to some of the worksession on this issue and would like to add a few thoughts.

\* The level of review for changes should NOT be the same throughout the city. People have different preferences for freedom/conformity/protection from change and it would be a great loss if something close to one standard was applied to all neighborhoods. Since 1982 I have lived in a Cape Cod in Kensington, a townhouse in an HOA community just outside the city limits, and in a single family house in a non-site plan community with historic district regulation. After living in the townhouse HOA community, I and my husband decided we never wanted to have that kind of restriction again, and I am sure that is the case with nearly every resident in my neighborhood, and much of Olde Towne. I am willing to accept the historic district regulation because it is (at least in theory) based on logical standards, not personal preference, and results in a public benefit. Obviously other people choose to live in areas with tight restrictions, because they want assurance about, and input on, any changes in their area.

\* There should be some "catastrophic change insurance plan" for all neighborhoods. I recently visited my old neighborhood in Kensington, and found that next to my former Cape Cod, the neighboring lot now has a 2.5 story colonial which looms over the other houses, and must run from setback to setback as well. This could be considered mansionization, or just upping the scale in redevelopment, depending on one's point of view. I would suggest that a change where cumulative new construction square footage from some base date meets or exceeds 50% of the base line square footage should require planning commission review in any neighborhood. I would use the new construction square footage, not the change in footprint or total square footage, so that it would include cases where a large part of the original structure was replaced, because this type of change could still result in compatibility issues.

\* It seems a graduated standard of review should apply in areas with site

*- Feb. 13<sup>th</sup>, 2006  
Site Plan Requirements Notification  
Amendment Procedures*



plans. My personal opinion is that the requirement for a hearing should be set at a certain level of change, without opportunity for neighbors to request a hearing in some cases but not others. This would allow owners to know with more certainty the type of project they could contemplate with reasonable assurance of it being allowed, and the point at which they need to make sure their neighbors are happy with what they plan to do. Whether a hearing is needed or not shouldn't depend on how one gets along with one's neighbors, since this is supposed to be a planning function. (This goes back to my preference for decisions based on logical rules, not personal preference, but I realize it could make life more difficult for staff when faced with small, but controversial changes.) I don't see any point in providing notice unless there is an opportunity for public input and discussion.

\* The parking issue is an important one, but the focus should be on the number of cars being parked, and the effect on the neighbors, not the size of the structure. Some households on my street have more cars than people, some have none at all. Some have driveways and garages to use for parking, some don't. It would be better to require that residents park all but two of the vehicles registered to people living at the address on their property in appropriate parking areas (not the front lawn) or something like that (maybe not legally possible, I don't know).

\* The building without a permit practice is widespread in the city. I don't have much to suggest on how to address this, but I find it more important (because of the safety aspects) than anything about building additions. Additions are clearly visible, finished basements and attics are not, and that is where the safety concerns are greatest. Having clearly defined procedures which are perceived as fair by the applicants is the minimum requirement for permit compliance, so lessening the requirements in site plan neighborhoods would probably help with this.

Cathy Drzyzgula

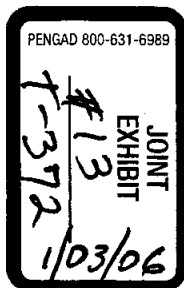
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Using M2, Opera's revolutionary e-mail client: <http://www.opera.com/m2/>

CC: Doris Stokes; Greg Ossont

# City of Gaithersburg

# Powerpoint





# **Amending Site Development Plans**

- **There are a number of neighborhoods in the City that are subject to Site Development Plans**
- **As a result, adding onto or expanding the footprints of single family homes in these neighborhoods requires a site plan amendment and Planning Commission review.**
- **This issue has raised concerns with some residents as well as with the Planning Commission because there is a perception that the process is complicated and excessive.**

# **Examples of Neighborhoods That Do Have Site Development Plans**

- Kentlands
- Lakelands
- Quince Orchard Park
- Washingtonian Woods
- Hidden Creek
- Saybrooke
- Lakelands Ridge
- Bennington
- Montgomery Meadows
- Woodland Hills
- Gateway Commons

# **Submission Requirements for Amendments to Site Plan**

- **\$300 application fee**
- **15 sets of plans**
- **Submittal deadline is approximately one month prior to Planning Commission hearing**
- **\$400 Sign Deposit (if abutting a street with more than two lanes)**

# **Current Requirements for Amending Site Plans**

- **Submitted approximately one month in advance of Planning Commission hearing.**
- **Staff conducts an internal review and requests any changes, revisions, clarifications.**
- **Staff prepares a report for Planning Commission.**
- **Property is posted at least 9 days prior to hearing date.**
- **Applicant presents to the Planning Commission.**
- **Commission decision with/without conditions.**

# **Consent Items**

- **In the past, the City has placed many of these residential additions on a “Consent Agenda” for the Planning Commission. Consent items do not require a Planning Commission hearing although the Commission may elect to hold one upon review of the application.**
- **Under the advice of Counsel, it was determined that there is no allowance for these applications to be presented as Consent Items and therefore must be held as a Planning Commission hearing .**
- **As a result, all residential additions, regardless of size, are reviewed by the Planning Commission at hearing.**

# **Policy Issue**

**Should all residential additions or alterations for properties that are under the purview of a site development plan require Planning Commission hearing review?**

**Current law allows Minor Amendments (Staff Approvals) for certain modifications to site plans but does not include approvals that would expand the building or footprint.**

**Should a threshold be implemented to allow smaller additions to be processed at Minor Amendments?**

**Should procedures for Consent Items be created and a threshold be implemented to allow smaller additions to be handled on a Consent Agenda with the Planning Commission?**

## Consent Agenda Items

In 2004, there were 24 Consent approval Items  
In the first six months of 2005, there were nine

The majority of these Consent Items were Extensions of Final Site Plan Approvals and small additions

The following is a list of Consent Items:

- New Roof for 26 N. Summit Avenue  
AFP-03-051
- Architectural Elevation Changes  
AFP-04-001 --Econo Lodge Adaptive Reuse (Seneca Heights Apartments) Elevation Modifications  
AFP-04-042 -- Hidden Creek Land Bay III -- Section 1, Architectural Adjustments
- Sign Packages  
AFP-04-006 -- King Volkswagen  
APF-04-033 -- Rosenthal/Victory Nissan of Gaithersburg  
APF-04-043 -- Lakelands Office Building  
AFP-04-014 --First Baptist Church -Monument Sign
- Compliance with Final Site Plan Conditions  
Sign Package for Kentlands Chipolte AFP-02-026  
Sign Package for Kentland Square SP-03-0002 --  
Architectural Elevations for Courtyard Marriott @ Washingtonian Waterfront SP-01-0015
- Addition of an Interior Mezzanine Level  
AFP-04-013--Thomas Cannery II 3 Diamond Avenue  
964-Sq.Ft. Mezzanine
- Extension of Final Site Plan Approval (Sec. 24-173 of the Zoning Ordinance)
- Amendments to Conditions of Final Site Plans  
SP-03-0011 --Gaithersburg High School 314 S. Frederick Avenue -Amendment to Condition of Approval
- Addition of Dumpsters  
AFP-04-038 -- Villa Ridge Condominiums 412 Girard Street  
Dumpster Additions
- Addition of Walkways and sidewalks

AFP-04-021 --St. Martin's Food Pantry Addition of Sidewalks and Covered Walkway

- Small additions

AFP-04-009 --Johnson Residence R-90 Cluster, 227 Perrywinkle Lane Addition to Front Porch

AFP-04-002 --Lamichane Property 121 Englefield Drive, Washingtonian Woods, Sunroom Addition to Existing Deck

AFP-04-007 --Barnes Property 168-Sq.Ft. Rear Addition, Pheasant Run

AFP-04-036 -- Baum Residence, R-90 Cluster 1 Solitaire Court 155-Sq.Ft. Sunroom Addition

AFP-04-012 --O'Connor Residence, R-90 Cluster, 207 Sportsman Way Single Story Addition

AFP-04-031 --Allen Residence, R-90 Cluster, 6 Relda Court Screened-in Porch

AFP-05-010 --McDonald's Restaurant, 83 Bureau Drive Exterior Changes/Outdoor Seating

AFP-05-017 --Hickey Property, R-90 Cluster, 25 Allenhurst Court Deck and Family Room Addition

AFP-05-019 --114 Summit Hall Road, R-90 Cluster, Bonilla Residence 448-Sq.Ft. Addition

- Sales Trailers (Not shown on final site plan)

AFP-05-009 --Summit SC near Hidden Creek Two Temporary Sales Trailers for Ryan & M/I Homes